

31/Reissue  
Decl 1/172

Patent  
Attorney's Docket No. 033364-280



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of ) MAILSTOP: REISSUE  
Patrick AHL et al. )  
Application No.: 09/398,934 (Reissue ) Group Art Unit: 1615  
application of U.S. Patent No. 5,662,930 )  
Filled: September 1, 1999 ) Examiner: Gollamudi S. Kishore  
For: REDUCTION OF LIPOSOME- ) Confirmation No.:1677  
INDUCED ADVERSE )  
PHYSIOLOGICAL REACTIONS )

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REISSUE APPLICATION DECLARATION BY THE ASSIGNEE  
PURSUANT TO 37 C.F.R. § 1.172

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Jean Duvall, hereby declare that:

My mailing address, citizenship, and position title are stated below next to my name. I am authorized to act on behalf of the current assignee, Elan Pharmaceuticals, Inc. The entire title to the patent identified below is vested in Elan Pharmaceuticals, Inc. as evidenced by the chain of title as described in the Statement Under 37 C.F.R. §3.73(b) submitted herewith.

The names, last-known addresses and citizenships of Patentees are as follows:

Patrick L. Ahl, 2E Brookline Court, Princeton, NJ 08536, US

Suresh Bhatia, B-165 Sarita Vihar, Mathura Road, New Delhi, 110044, IN

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Sharma R. Minchey, 1693 Camp Hill Road, Lafayette, TN 37083, US

Andrew S. Janoff, 560 Countess Drive, Yardley, PA 19067, US

I believe the above patentees to be the original, joint inventors of the subject matter which is described and claimed in the patent, for which a reissue patent is sought on the invention entitled **REDUCTION OF LIPOSOME-INDUCED ADVERSE PHYSIOLOGICAL REACTIONS**, the specification of which was filed on September 1, 1999, as Reissue Application Number 09/398,934 and was amended on September 1, 1999; November 2, 2000; October 26, 2001, by way of a Request for Continued Examination, which requested entry of the amendment filed on August 27, 2001; September 23, 2002; and in the Reply & Amendment submitted herewith.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. At least one error upon which reissue is based is described as follows. Original Claim 14 may be considered indefinite as improperly depending from Claim 12, rather than Claim 13. Accordingly, the recitation of "functional group" in Claim 14 lacks antecedent basis. This error was corrected in the Amendment filed September 23, 2002. Additionally, Claim 16 may be considered indefinite as containing an improper Markush group. A rejection of Claim 16 under 35 U.S.C. § 112, second

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paragraph, was made in the Official Action issued on April 25, 2002, in the present reissue application. Claim 16 was amended and new Claims 54-57 were added in the Amendment filed September 23, 2002, to correct this error.

All errors corrected in this reissue application arose without any deceptive intention on the part of the Applicants. Moreover, none of the above errors were brought to the attention of Applicants during prosecution of the original patent.

This Reissue Declaration by Assignee Pursuant to 37 C.F.R. § 1.172 is proper because the present reissue application no longer seeks to broaden the scope of the original patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Respectfully submitted,

Date: Sept. 26, 2003

By: Jean Duvall

Jean Duvall  
Executive Vice President and General Counsel  
Elan Pharmaceuticals, Inc.  
800 Gateway Blvd.  
South San Francisco, CA 94080  
U.S. citizen

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CONSENT OF ASSIGNEE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned states that she is empowered to execute this Consent on behalf of Elan Pharmaceuticals, Inc., assignee of the entire interest in U.S. Patent No. 5,662,930, and the above-identified reissue application. The entire title to the patent and subsequent reissue application is vested in Elan Pharmaceuticals, Inc. as evidenced by the chain of title as described in the Statement Under 37 C.F.R. §3.73(b) submitted herewith.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that

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such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this Consent is directed.

Respectfully submitted,

Date: Sept. 26, 2003

By: Jean Duvall

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Executive Vice President and General Counsel  
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South San Francisco, CA 94080  
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